



Conseil Cris-Québec sur la foresterie
Cree-Québec Forestry Board

Québec, le 2 novembre 2006

Monsieur Pierre Corbeil
Ministre
Ministère des Ressources naturelles et
de la Faune
5700, 4^e Avenue Ouest, A 308
Québec (Québec) G1H 6R1

Objet : Amendements proposés à la Loi sur les forêts

Monsieur le Ministre,

Le 18 septembre dernier, par l'entremise de Mme Paule Têtu, sous-ministre associée à Forêt Québec, vous demandiez les commentaires préliminaires du Conseil Cris-Québec sur la foresterie sur les modifications proposées à la Loi sur les forêts et à d'autres dispositions législatives.

La présente vise à vous faire part de ces commentaires préliminaires. Le Conseil Cris-Québec sur la foresterie accueille favorablement la plupart des objectifs et modifications proposés à la Loi sur les forêts et à certaines dispositions législatives. Plusieurs des propositions présentées nous apparaissent pertinentes dans le cadre d'une gestion forestière axée sur le développement durable, lequel cadre correspond aussi à celui guidant la mise en œuvre du régime forestier adapté. Certains objectifs et modifications envisagés sont toutefois accueillis avec précaution principalement en lien avec l'application de *l'Entente concernant une nouvelle relation entre le gouvernement du Québec et les Cris du Québec*

Nous comprenons que les amendements proposés seront développés en respect de l'Entente et du mandat des mécanismes de mise en œuvre qui y sont prévus. Sur le territoire, la mise en œuvre de plusieurs des amendements proposés fera appel à l'implication des groupes de travail conjoints et du Conseil. Il sera donc important que ces mécanismes soient impliqués ou tenus informés de l'application de ces changements et ce, en respect de leur mandat respectif.

Le Conseil salue l'ouverture proposée en regard de la gestion des chemins en milieu forestier. De même, il appuie l'approche visant le renforcement de la responsabilisation des intervenants et la transparence des actions. En ce sens, nous supportons les allègements à la loi en regard des nouvelles bases des approches de vérification et de suivi des activités forestières.

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L'une des modifications proposées porte spécifiquement sur la responsabilité du ministre d'élaborer les stratégies d'aménagement forestier. Nous reconnaissons cette responsabilité. En ce sens, il nous apparaît opportun de rappeler que, dans le cadre du régime forestier adapté, la position du ministre à l'égard des stratégies sur les habitats fauniques (Annexe C-4, art. 60) et des peuplements mélangés (Annexe C-3 c.) est toujours attendue.

En ce qui a trait aux modifications proposées en regard du mouvement des bois et du niveau annuel d'exploitation, le Conseil est d'accord que de tels assouplissements sont requis dans le contexte actuel. Par ailleurs, sur le territoire de l'Entente il sera essentiel que les modifications proposées soient mises en œuvre en s'assurant de l'atteinte des objectifs poursuivis par les modalités d'accès à la ressource forestière, soit une implication accrue des Cris dans les activités de développement économique. Rappelons qu'il sera important que les Cris et le Conseil soient tenus informés de l'application de ces changements.

Quant aux modifications liées à la délimitation des unités d'aménagement forestier, le Conseil tient à rappeler que toute modification à ce niveau devra se faire en conformité avec les dispositions pertinentes de l'Entente et faire l'objet d'un avis du Conseil, au ministre.

Vous trouverez ci-joint, à l'intention des responsables chargés de finaliser les amendements à la Loi sur les forêts, un tableau présentant de façon plus spécifique les commentaires préliminaires du Conseil pour chacune des propositions présentées, incluant certains considérants liés à l'application de ces modifications sur le territoire de l'Entente.

En terminant, considérant l'importance de la présente consultation et l'information disponible, nous tenons à attirer votre attention sur le trop court délai proposé par votre ministère pour recevoir les commentaires du Conseil. Soyez assuré que nous traitons les demandes de commentaires et d'avis que vous nous soumettez avec diligence. Nous désirons néanmoins disposer d'un délai raisonnable pour pouvoir le faire, en conformité avec notre mandat.

Veuillez agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

Le président du Conseil,



Jean-Pierre Gauthier

p.j.

COURTESY TRANSLATION

Québec, November 2nd, 2006

Mr. Pierre Corbeil
Minister
Ministère des Ressources naturelles et
de la Faune
5700, 4^e Avenue Ouest, A 308
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Subject: Proposed Amendments to the Forest Act

Dear Minister,

On September 18, through Ms Paule Têtu, Associate Deputy Minister of Forêt Québec, you requested preliminary comments from the Cree-Québec Forestry Board regarding the proposed modifications to the Forest Act and other legislative dispositions.

This letter is to provide you with those preliminary comments. The Cree-Québec Forestry Board is favourable to most of the objectives and the modifications proposed to the Forest Act and to some legislative dispositions. Several of the proposals presented us seem pertinent within the framework of forest management centred on sustainable development, a framework that corresponds with that which guides the development of the adapted forestry regime. Certain of the objectives and modifications put forward are however welcomed with precaution mainly as they relate to the application of *the Agreement concerning a new relation between le Gouvernement du Québec and the Crees of Québec*

We understand that the proposed amendments will be developed in conformity with the Agreement and the mandate of the implementation mechanisms provided for in it. On the territory, the application of several of the proposed amendments will call for the implication of the Joint Working Groups and the Board. It will thus be important that these mechanisms be involved or informed of the application of these changes and this, in compliance with their respective mandate.

The Board salutes the openness proposed regarding the management of forestry roads. As well, it supports the approach aimed at strengthening stakeholders' accountability and transparency of action. In this sense, we support the streamlining of the law regarding the new bases of verification strategies and the supervision of forest activities.

One of the modifications proposed specifically concerns the Minister's responsibility to produce forestry management strategies. We recognise this responsibility. In this sense, it seems opportune to recall that, in the adapted forestry regime, the Minister's position is still awaited regarding wildlife habitat management strategies (Appendix C-4, art. 60) and the mixed forest stands management strategy (Appendix C-3 c.).

Regarding the modifications proposed to the transfer of timber between mills and annual harvesting levels, the Board agrees that such concessions are required in the current conjuncture. However, on the territory of the Agreement it will be essential that the proposed modifications are implemented while ensuring the achievement of the objectives pursued by the modalities on access to the forest resources, that is an active and ongoing participation by the Crees in economic development activities. Let us remind that it will be important that the Crees and the Board are kept informed of the application of these changes.

As to the modifications tied to the delimitation of forest management units, the Board is clear that any modification of this point must be made in conformity with the applicable provisions of the Agreement and is subject to the opinion of the Board, to the Minister.

Please find attached for the attention of those charged with the finalization of the amendments to the Forest Act, a table that presents in greater detail the preliminary comments of the Board for each of the proposed modifications, including certain elements of analysis tied to the application of these changes on the territory of the Agreement.

In closing, considering the significance of the present consultation and the available information, we draw your attention to the very short timeframe proposed by your Ministry to receive the Board's comments. Be assured that we diligently address the requests for commentary and advice that we receive from you. We do wish, however, to have a reasonable delay in which to do so, in conformity with our mandate.

Please accept our kindest regards.

Jean-Pierre Gauthier
Chairman of the Board

Attach.

Analysis of the proposed amendments to the Forest Act – November 2006
Working document – CQFB Secretariat

Principles underlying the Government's actions	Motives put forwards / Objectives pursued	Proposed amendments to the Act	Preliminary comments	Elements to consider linked to the application of the proposed modifications on the territory of the Agreement	Associated provisions of the Agreement
<p>1. Management of the forest as single entity</p>	<p>Forest road management, including temporary and permanent road closures to protect aquatic environments, preserve biological diversity, to manage traffic more effectively on wildlife structured areas and to better control prohibited behaviours.</p>	<ul style="list-style-type: none"> • Give the Minister the power to close or authorizing the closure of forest roads. • Give the Minister the power to demand the restoration of forest roads. • Stipulate that the GFMP must identify any forest roads to be closed. 	<p>Favourable</p>	<p>Generally, the proposed modifications seem favourable to the implementation of the Agreement. The ease they would bring would facilitate the implementation of the articles related to the management of the roadway network (section 3.13) and the harmonisation of the various uses of the territory, as well as to certain specific situations such as multiple forest roads, interconnections, etc.</p> <p>These dispositions could also facilitate the treatment of files concerning access and Cree preoccupations with wildlife.</p> <p>The Board considers that the identification of roads to be closed and the closing thereof will have to be done in close consultation with the tallymen and with the participation of the Joint Working Groups (JWGs).</p> <p>The « access coordination table», set up by the Agreement, could also be called upon in the treatment of certain files.</p>	<p>Section 3.13</p>

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2. Transparent, responsible management	Improve the AFMP approval process (section 2.1 of MNRW document)	<ul style="list-style-type: none"> Improvement of the AFMP approval process by placing the forestry engineer at the heart of decision making. Provisions of the Forest Act focused more on the results of the analysis process than on collection of inventory data. Agreement holders would not have to provide the surveys plans, sampling units and forest inventory data compiled and analyzed at the deposit of the AFMP. Agreement holders would only submit the silvicultural prescriptions derived from the compilation and analysis of the forest inventory data. MNRW would verify a given percentage of the prescriptions at random and then targeted according to the identified risk level based on the activity and the company. Permits would be issued only for those prescriptions considered to be appropriate. 	<p>Favourable to the approach/ precaution</p> <p>Favourable</p>	<p>The Agreement does not contain precise dispositions for the level of professional latitude to be granted to forestry engineers but it underlies it. It would be advantageous to leave more room for the interventions of the forestry engineer, while clearly defining the intervention framework.</p> <p>The dispositions of the agreement related to the approval of the AFMP do not mention the nature of the information that must be transmitted by the beneficiaries to the MNRW nor the professional latitude to grant forestry engineers. However, such as provided for in the Agreement and in conformity with their respective mandate, the information will have to be available, as needed, for the Joint Working Groups and the Board.</p> <p>Silvicultural prescriptions for Agreement territory should integrate, in addition to the information stemming from the analysis of inventory data compilation, information associated with wildlife habitats and tallymen concerns. The Board considers that JWGs should be closely involved in the application of this modification.</p> <p>The Agreement provides that the JWGs have an important role in the annual review of forestry interventions and should be involved in the evaluation of silvicultural prescriptions. The Board considers that JWGs should be closely involved in the application of this modification.</p>	<p>Section 3.2, part C-4</p> <p>Section 3.2, part C-4</p> <p>Section 3.1 et 3.2, part C-4</p> <p>Section 4.1 et 4.4, part C-4</p>

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2. Transparent, responsible management	New verification approach (section 2.1 of MRNW document)	<ul style="list-style-type: none"> • Verification approach based on the agreement holders classification according to their performance and modulation of regional control based on that performance. • Plans for regional controls based on sustainable forest management indicators. • Review of the control activities in order to : <ul style="list-style-type: none"> – Precise that the MNRW verifications would cover all the obligations imposed upon holders (TFSMA, FMA, FMCs) by the Forest Act and the contracts; – State clearly that verifications may be carried out at the time deemed appropriate by the MNRW; – Require that agreement and contracts holders periodically report on the progress of their various activities (intervals of the reports determined by the Minister and the holders). 	<p>Favourable to the approach/ precaution</p> <p>Favourable to the approach</p> <p>Favourable/ precaution</p>	<p>The Board considers that in conformity with their respective mandate and by their implication at the level of the monitoring of the activities, the JWGs and the Board should be called upon to contribute to the establishment of beneficiary performance.</p> <p>The Board considers that in conformity with their respective mandate and by their implication at the level of the monitoring of the activities, the JWGs and the Board should be involved in the determination of the intervals and the control activities.</p>	<p>Section 4.1 and 4.4, part C-4</p> <p>Section 4.1 and 4.4, part C-4</p>
2. Transparent, responsible management	Continuation of monitoring activities - transition from common areas to FMUs (section 2.2 of MNRW document)	<ul style="list-style-type: none"> • On April 1, 2008, the agreements would be renewed on the conditions set by the Minister by the way allowing the MNRW to precise agreement holders their obligations relating to monitoring and application of the silvicultural treatments required on the FMUs. 	Favourable	The Board considers that in conformity with their respective mandate and by their implication at the level of the monitoring of the activities, the JWGs and the Board should be involved in the application of this modification.	Section 4.1, 4.2 and 4.4, part C-4

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3. Participatory management using a regional approach	Development of partnership in the private forest sector (section 3 of MNRW document)	<ul style="list-style-type: none"> • Improve the process for certifying forest producers and registering their properties. • Give the Minister the power to require an agency to amend its internal bylaws dealing with ethics and decision-making. • Give the Minister to power to require an agency to update its private forest protection and development plans. The review of the plans would not be on a set dated but at time deemed most appropriated by the agency or the minister. • Requiring every agency to publish the documents it produces or make them available for consultation like financial statements, annual report, private forest protection and development plans. 	<p>No comment</p> <p>Precaution</p>	<p>The proposed modifications are more specifically related to the development of partnerships in the private forest sector. These modifications therefore do not have impact on Agreement territory.</p> <p>However, let us remind that any approach of regionalization of the management of forest resources on the territory will have to take into account the Agreement and be the object of an advice from the CQFB.</p>	
4. A productive, healthy forest	Oblige those who obtain access to timber from the public forests to improve their environmental and forest management performance continually (section 4 of MNRW document)	<ul style="list-style-type: none"> • Stipulate that the Minister may, if the environmental and forest-related performance of an agreement holder is unsatisfactory and circumstances so warrant, demand the application of a remedial program, whether or not he decides to reduce the volumes of wood allocated in the agreement. • Stipulate that the forest management strategies for the GFMP are drawn up by the Minister. 	Favourable	<p>The Board considers that in conformity with their respective mandate and by their implication at the level of the monitoring of the activities, the JWGs and the Board should be involved in the application of this modification.</p> <p>The mixed forest stands management strategy, development of which is under the responsibility of the department, and the management strategies that should follow the draft directives for the protection and development of wildlife habitats are still not available.</p>	<p>Art. 19 et 20, part C-4</p> <p>Section c), part C-3 and art. 59, part C-4</p>

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5. A dynamic forest sector	<p>Addition of provisions concerning occasional increases in the authorized annual harvest allowing agreement holders to take advantage of favourable market conditions while respecting the allowable annual cut and the volume allocated for the period covered by the GFMP, which is established on a five-year basis. (section 5.2 of MNRW document)</p> <p>Abolition of the industrial performance assessment requirement for TSFMA holders (section 5.3 of MNRW document)</p>	<ul style="list-style-type: none"> • Allow agreement (TSFMA, FMA) holders, in a given year, to harvest an additional volume of timber in advance, equal to not more than 10% of the total volume stipulated in their agreement; • Limit the total volume of timber harvested in advance since the beginning of the period covered by the GFMP to 15% of the overall volume allocated in the agreement; • Demand a rebalancing of harvests within the period covered by the GFMP, by stipulating that the total volume of timber harvested over the five-year period must not exceed the five-year volume that may be harvested pursuant to the usual rules; • Stipulate that recourse to these provisions would be authorized by the MNRW upon approval of the AFMP, which would stipulate the total volume of timber that the agreement holder plans to cut during the year in question. 	Precaution	<p>The Board considers that in conformity with their respective mandate, the JWGs and the Board should be kept informed of the application of this modification on the territory.</p> <p>The application of these modifications in the eventuality of natural disturbances should be in line with the outcome of the discussions held by the working group on natural disasters.</p>	<p>Art. 19 and 20, Part C-4</p> <p>Ref. Agreement amending the Agreement (section VI-(C-6))</p>
		<ul style="list-style-type: none"> • Eliminates the criterion providing for industrial performance of the agreement holder in the use of ligneous matter to be used to revise the volume allocated in 2008. This criterion is difficult to apply since it does not take into account variations in the economic context that affect both the forestry companies and their mill activities. • The MNRW intends to apply other administrative provisions to encourage companies to improve their industrial performance. 	No comment		

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5. A dynamic forest sector	Abolition of authorization to build a mill (section 5.4 of MNRW document)	<ul style="list-style-type: none"> Removed the provisions stipulating that the Minister grants authorization, if he considers that timber supply sources are sufficient, to a person wishing to construct a wood processing plant, increase the timber consumption capacity of a plant or change its class or location. 	No comment		
	Minor amendments to the boundaries of forest management units (section 5.5 of MNRW document)	<ul style="list-style-type: none"> Simplified the procedure set out to modify the FMU boundaries allowing the Minister to review the boundaries of a FMU as required at any time to : <ul style="list-style-type: none"> – Correct a technical error made during the delimitation process; – Include a new area subsequently acquired by the State, for example through an exchange or purchase of land. 	Precaution	All modification of FMU delimitations require the participation of the Cree party and the Board in with the manner set out in the Agreement.	Art. 3.8.1 to 3.8.9